

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MT. HAWLEY INSURANCE COMPANY,

Case No. 1:23-cv-10809-MMG

Plaintiff,

v.

**DEFAULT
JUDGMENT**

SMITH AND COMPANY, A REAL ESTATE
DEVELOPMENT CORPORATION,

Defendant.

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This action was commenced by the filing of the state court Summons and Complaint on November 3, 2023. [ECF Dkt. Nos. 1-1, 1-2; NYSCEF Index No. 655482/2023, Dkt. Nos. 1-2] Copies of the Summons and Complaint was served by personal delivery on Defendant as follows:

1. On November 15, 2023, Defendant Smith and Company, A Real Estate Development Corporation (“Defendant”) was served with true and correct copies of the Summons and Complaint at 505 Bath Street, Santa Barbara, California 93101, the Defendant’s actual place of business and registered address for accepting service of process, upon Gaby Perez, the Defendant’s Bookkeeper, who is authorized to accept service of such documents. [ECF Dkt. No. 1; NYSCEF Index No. 655482/2023, Dkt. No. 11]
2. Defendant is not an infant nor incompetent.
3. Defendant filed its Answer on January 16, 2024. [ECF Dkt. No. 19]
4. On May 14, 2024, Defendant’s counsel, Shafer Partners, LLP, filed a motion for an order permitting it to withdraw as counsel. [ECF Dkt. No. 26]
5. On May 20, 2024, this Court issued an Order to Show Cause as to why Shafer Partners, LLP should not be permitted to withdraw as counsel for Defendant. [ECF Dkt. No. 27]

6. On June 21, 2024, this Court issued an Order granting Shafer Partners, LLP's Motion to Withdraw as Counsel for Defendant. The Order stipulated that Defendant had to secure new counsel by July 22, 2024. [ECF Dkt. No. 32]
7. Defendant did not secure new counsel by the July 22, 2024 deadline, and has still yet to do so.
8. On July 24, 2024, Plaintiff filed a request for Certificate of Default to be entered as against Defendant, and the Default of the Defendant was duly entered on the docket by the Clerk of Court on July 24, 2024. [ECF Dkt. No. 38]
9. At no time since issuance of the above-referenced Certificate has Defendant appeared in this matter, nor has Defendant retained counsel to appear, respond, or defend on its behalf.
10. The time for Defendant to retain new counsel has expired, and Defendant has not requested an extension of time to do so.
11. Defendant has been properly served, and is aware of the Complaint in this matter, and of this pending litigation against it, and has failed retain new counsel to defend on its behalf.
12. Plaintiff has satisfied its burden for establishing that it is entitled to the declaratory relief that it seeks in this matter.
13. Accordingly, it is hereby:

ORDERED, ADJUDGED AND DECREED: for the reasons set forth in Plaintiff Mt. Hawley Insurance Company's moving papers, specifically that the claims at issue in the underlying property damage actions are either not covered in the first instance or are otherwise excluded from coverage under the applicable insurance policy, Plaintiff Mt. Hawley Insurance Company has a default judgment against Defendant, and it is accordingly declared that Mt. Hawley has no obligation to defend or indemnify Defendant in connection with any claims in the following underlying actions: (1) *Laurel Creek, LP v. Wick's Roofing, Inc., et al.*, Case No. 23CV-0445, pending in California Superior Court, San Luis Obispo County; (2) *Winkles Enterprises, Inc.*

dba New Life Restoration v. Smith and Company, a Real Estate Development Corporation, et al., (and related cross-complaint), Case No. 23CV-0360, pending in California Superior Court, San Luis Obispo County; and (3) *Consolidated Electrical Distributors, Inc. v. Laurel Creek, LP, et al.* (and related cross-complaint), Case No. 23CV-0393, pending in California Superior Court, San Luis Obispo County.

The Clerk of Court is respectfully directed to CLOSE this case.

SO ORDERED: this 11th day of October, 2024.



MARGARET M. GARNETT
UNITED STATES DISTRICT JUDGE